

Federal Election Commission

§ 102.5

(3) It does not appear from evidence available that a contribution in violation of 11 CFR parts 110 and 114 will result.

[45 FR 15104, Mar. 7, 1980, as amended at 60 FR 64273, Dec. 14, 1995]

§ 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers: Accounts and accounting.

(a) *Organizations that are political committees under the Act, other than national party committees.* (1) Each organization, including a State, district, or local party committee, that finances political activity in connection with both Federal and non-Federal elections and that qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate Federal account in a depository in accordance with 11 CFR part 103. Such account shall be treated as a separate Federal political committee that must comply with the requirements of the Act including the registration and reporting requirements of 11 CFR parts 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate Federal account. *See* 11 CFR 103.3. All disbursements, contributions, expenditures, and transfers by the committee in connection with any Federal election shall be made from its Federal account, except as otherwise permitted for State, district and local party committees by 11 CFR part 300 and paragraph (a)(5) of this section. No transfers may be made to such Federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-Federal elections, except as provided by 11 CFR 300.33, 300.34, 106.6(c), 106.6(f), and 106.7(f). Administrative expenses for political committees other than party committees shall be allocated pursuant to 11 CFR 106.6(c) between such Federal account and any other account maintained by such committee for the purpose for financing activity in connection with non-Federal elections. Administrative expenses for State, district, and local party com-

mittees are subject to 11 CFR 106.7 and 11 CFR part 300; or

(ii) Establish a political committee that shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with Federal or non-Federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions meeting any of the conditions set forth in paragraphs (a)(2)(i), (ii), or (iii) of this section may be deposited in a Federal account established under paragraph (a)(1)(i) of this section, *see* 11 CFR 103.3, or may be received by a political committee established under paragraph (a)(1)(ii) of this section:

(i) Contributions designated for the Federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a Federal election; or

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.

(3) State, district, and local party committees that intend to expend Levin funds raised pursuant to 11 CFR 300.31 for activities identified in 11 CFR 300.32(b)(1) must either:

(i) Establish one or more separate Levin accounts pursuant to 11 CFR 300.30(c)(2); or

(ii) Demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.30(c)(1) or (3) to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission.

(4) Solicitations by Federal candidates and Federal officeholders for State, district, and local party committees are subject to the restrictions

§ 102.6

11 CFR Ch. I (1–1–16 Edition)

in 11 CFR 300.31(e) and 11 CFR part 300, subpart D.

(5) State, district, and local party committees and organizations may establish one or more separate allocation accounts to be used for activities allocable pursuant to 11 CFR 106.7 and 11 CFR 300.33.

(b) *Organizations that are not political committees under the Act.* (1) Any organization that makes contributions, expenditures, and exempted payments under 11 CFR 100.80, 100.87 and 100.89 and 11 CFR 100.140, 100.147 and 100.149, but that does not qualify as a political committee under 11 CFR 100.5, must keep records of receipts and disbursements and, upon request, must make such records available for examination by the Commission. The organization must demonstrate through a reasonable accounting method that, whenever such an organization makes a contribution or expenditure, or payment, the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure, or payment.

(2) Any State, district, or local party organization that makes payments for certain Federal election activities under 11 CFR 300.32(b) must either:

(i) Establish one or more Levin accounts pursuant to 11 CFR 300.30(b) into which only funds solicited pursuant to 11 CFR 300.31 may be deposited and from which payments must be made pursuant to 11 CFR 300.32 and 300.33. See 11 CFR 300.30(c)(2)(i); or

(ii) Demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.31 to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission. See 11 CFR 300.30(c)(2)(ii).

(3) All such party organizations shall keep records of deposits to and disbursements from such Federal and Levin accounts, and upon request, shall

make such records available for examination by the Commission.

(c) *National party committees.* Between November 6, 2002, and December 31, 2002, paragraphs (a) and (b) of this section apply to national party committees. After December 31, 2002, national party committees are prohibited from raising and spending non-Federal funds. Therefore, this section does not apply to national party committees after December 31, 2002.

[67 FR 49111, July 29, 2002, as amended at 67 FR 78680, Dec. 26, 2002; 69 FR 68067, Nov. 23, 2004]

§ 102.6 Transfers of funds; collecting agents.

(a) *Transfers of funds; registration and reporting required*—(1) *Who may make transfers under this section.* (i) Transfers of funds may be made without limit on amount between affiliated committees whether or not they are political committees under 11 CFR 100.5.

(ii) Subject to the restrictions set forth at 11 CFR 300.10(a), 300.31 and 300.34(a) and (b), transfers of funds may be made without limit on amount between or among a national party committee, a State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated.

(iii) Transfers of joint fundraising proceeds may be made without limit on amount between organizations or committees participating in the joint fundraising activity provided that no participating committee or organization governed by 11 CFR 102.17 received more than its allocated share of the funds raised.

(iv) Transfers under paragraphs (a)(1) (i) through (iii) shall be made only from funds which are permissible under the Act. See 11 CFR parts 110, 114 and 115.

(2) *When registration and reporting required.* Except as provided in 11 CFR 102.6(b), organizations or committees making transfers under 11 CFR 102.6(a)(1) shall count such transfers against the reporting thresholds of the Act for determining whether an organization or committee is a political committee under 11 CFR 100.5.